

Court of the United States where the subpoena was returnable. However, in the case of an expert witness, the witness fee shall not exceed the local customary fee for such service. Fees and mileage requested by such witnesses shall be paid by the Office.

(c) Non-government witnesses subpoenaed under this section who have submitted evidence into the case record at the request of the claimant or who have not submitted evidence into the case record but have testimony which is relevant and material to the issue in question and were subpoenaed at the request of the claimant, shall be paid the same fees and mileage as are paid for like services in the District Court of the United States where the subpoena was returnable. However, in the case of an expert witness, the witness fee shall not exceed the local customary fee for such service. Fees and mileage requested by such witnesses shall be paid by the claimant.

[52 FR 10513, Apr. 1, 1987]

§ 10.135 Employing agency attendance at hearings and submission of evidence.

The employing agency does not have the right to request a hearing pursuant to 5 U.S.C. 8124. However, the employing agency has an interest in the outcome of the hearing and frequently possesses information pertinent to issues raised at the hearing. Therefore, the employing agency shall be afforded the opportunity to have an agency representative in attendance at the hearing and/or to request that it receive a copy of the hearing transcript. Where the employing agency sends a representative, the representative will attend primarily in the role of an observer without the right to question the claimant or make any argument. However, since the claimant is entitled to present evidence in support of the claim, the agency representative may, upon the specific request of the claimant, be called upon by the Office representative to give oral testimony. Where the employing agency requests that it receive a copy of the hearing transcript, the agency will be allowed 15 days following release of the transcript to submit comments or additional material for inclusion in the

record. Any comments or materials submitted by the agency are subject to review and comment by the claimant within 15 days following the date the Office sends any such agency submission to the claimant.

[52 FR 10512, Apr. 1, 1987]

§ 10.136 Termination of hearing; release of decision.

The Office representative shall fix the time within which evidence will be received and shall terminate the hearing by mailing a copy of the decision, setting forth the basis therefor, to the claimant's last known address and to the claimant's representative, if any. A copy of the decision will also be mailed to the employing agency.

[52 FR 10512, Apr. 1, 1987]

§ 10.137 Postponement; withdrawal or abandonment of request for hearing.

(a) A scheduled hearing may be postponed or cancelled at the option of the Office, or upon written request of the claimant if the request is received by the Office at least 3 days prior to the scheduled date of the hearing and good cause for the postponement is shown. The unexcused failure of a claimant to appear at a hearing or late notice may result in the assessment of costs against such claimant.

(b) A claimant may withdraw a request for a hearing at any time by written notice to the Office representative before the hearing is held, or on the record at the hearing.

(c) A claimant who fails to appear at a scheduled hearing may request in writing within 10 days after the date set for the hearing that another hearing be scheduled. Where good cause for failure to appear is shown, another hearing will be scheduled. The failure of the claimant to request another hearing within 10 days, or the failure of the claimant to appear at the second scheduled hearing without good cause shown, shall constitute abandonment of the request for a hearing. Where good cause is shown for failure to appear at the second scheduled hearing, another hearing will be scheduled. Unless extraordinary circumstances such